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United States District Court, Northern District of New York.

RE JULIUS R. PETTIS.

A debt fraudulently contracted is not discharged by an adjudication of bankruptcy, and the Court of Bankruptcy will not therefore interfere, to prevent the creditor from enforcing his claim, by imprisonment, even during the pendency of the proceedings in bankruptcy, unless such interference be necessary to enable the court to exercise its proper authority and jurisdiction in the case.

IN this case the bankrupt applied for an order staying the issue of an execution against his body, upon a judgment obtained against him by Richard J. Connor and Charles J. Richardson, of the city of New York.

This motion was opposed, on the ground that the judgment was obtained for a debt created by the fraud of the bankrupt.

R. W. Townsend and Cornwell, for Pettis.

Ganson & Smith and B. C. Thayer, for judgment-creditors.

HALL, J.—The judgment against the petitioner, under which he anticipates arrest, appears to have been rendered upon a debt created by fraud of the bankrupt, and the 33d section of the Bankrupt Act expressly provides that no such debt shall be discharged under that act. The 26th section, which provides for the production or examination of the bankrupt in case he is imprisoned, and which provides that no bankrupt shall be liable to arrest during the pendency of the proceedings in bankruptcy, in any civil action, unless the same is founded on some debt or claim, from which his discharge in bankruptcy would not release him, shows that he is not to be considered as absolutely privileged from arrest, and as the Court in Bankruptcy has no power to discharge the judgment, it should not interfere to prevent its enforcement by imprisonment, unless it be necessary to enable the Bankrupt Court to exercise its proper authority and jurisdiction in the case. The effect of the protection which the register is authorized to grant is not now under consideration, and the present motion is disposed of without reference to the extent of that protection, and without determining any question other than that directly in controversy.

The motion is denied, but as this is the first time the question has been presented it is without costs.